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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/513,960
Filing Date: February 28, 2000
Appellant(s): PLOTKIN, JOEL FREDERIC

Richard A. Neifeld
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/09/2005 appealing from the Office action
mailed 12/16/2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct. This Supplemental Examiner's Answer includes a new grounds of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 2, 4-10, 21-26, and 29-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1, 2, 4-10, 21-26, and 29-30 are directed to a "method" and therefore are considered process claims for the purposes of § 101. To qualify as statutory subject matter, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). Thus, to qualify as patent eligible, these processes must positively recite the other statutory class to which it is tied (e.g., by identifying the apparatus the accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g., by identifying the product or material that is changed to a different state). Claims 1, 2, 4-10, 21-26, and 29-30 identify neither the apparatus performing the recited steps nor any transformation of underlying materials. Claim 26, while reciting a computer for transmitting or receiving data, does not require any machine or apparatus (the computer) for any manipulation or transformation of data or signals, thereby constituting a trivial use of technology. Therefore, claims 1, 2, 4-10, 21-26, and 29-30 identify

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neither the apparatus performing the recited steps nor any transformation of underlying materials and, accordingly, are directed to non-statutory subject matter.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Plantz et al.	US 6,088,702	July 11, 2000
Hager et al.	US 5,377,355	Dec. 27, 1994
Price et al.	"Peering Into Peer Review"	Nov. 1995

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

New Grounds of Rejection

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 2, 4-10, 21-26, and 29-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1, 2, 4-10, 21-26, and 29-30 are directed to a "method" and therefore are considered process claims for the purposes of § 101. To qualify as

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statutory subject matter, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972).

Thus, to qualify as patent eligible, these processes must positively recite the other statutory class to which it is tied (e.g., by identifying the apparatus the accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g., by identifying the product or material that is changed to a different state). Claims 1, 2, 4-10, 21-26, and 29-30 identify neither the apparatus performing the recited steps nor any transformation of underlying materials. Claim 26, while reciting a computer for transmitting or receiving data, does not require any machine or apparatus (the computer) for any manipulation or transformation of data or signals, thereby constituting a trivial use of technology. Therefore, claims 1, 2, 4-10, 21-26, and 29-30 identify neither the apparatus performing the recited steps nor any transformation of underlying materials and, accordingly, are directed to non-statutory subject matter.

Upon reconsideration, Claim Objections, and Claim Rejections under 35 USC § 112.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-12, 14-27 and 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plantz et al. (U. S. 6,088,702) in view of Hager et al. (U. S. 5,377,355).

Plantz et al. (Plantz) teaches a method and system for permitting coordinated publishing, assembly and administration of texts by an unlimited number of authors or editors, comprising:

As per **claims 1, 11 and 20,**

- receiving manuscript data defining a manuscript comprising at least one of text data, audio data, and video data (column 7, lines 37-43, 58-63; column 8, lines 20-27; column 9, lines 24-31);
- prompting a potential reviewer for agreement to review said manuscript (column 8, lines 20-30, 64);
- storing agreement data received from said potential reviewer (column 8, lines 20-30, 59-67; column 10, lines 1-13).

Plantz does not specifically teach *storing a decision whether to publish*.

Hager et al. (Hager) teaches a method and system for automatically initiating additional procedures with regard to a document, wherein evaluators vote to publish the document, and a decision whether to publish is stored (column 2, lines 39-53; column 7, lines 20-21; column 7, line 48 through column 8, line 1; column 8, lines 44-51; column 9, lines 48-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Plantz to include: storing a decision whether to publish, as disclosed in Plantz, because it would advantageously allow to combine in one system both reviewing and editorial functionality, thereby enhancing the performance of the system and making it more attractive to customers.

Furthermore, Plantz teaches:

As per **claims 2 and 12**, transmitting a signal prompting an additional potential reviewer for agreement to review said manuscript based on stored agreement data from at least one potential reviewer (column 8, lines 59-67).

As per **claims 4 and 14**, storing (adding) an identification of an associate (new) editor for said manuscript in association with said manuscript data (column 10, lines 4-14). Furthermore, Plantz teaches that depending on the project, assigning editorial tasks would include assigning an *executive* editor and other (associate) editorial titles (column 9, lines 56-62).

As per **claims 5 and 15**, storing at least one date on which said new assigned (associate) editor assigns a potential reviewer (data related to signing in a new editor and maintaining the required log-in data) (column 10, lines 12-20).

As per **claims 6 and 16**, storing a date on which at least one of: receiving said manuscript, prompting a potential reviewer, and receiving agreement data occurs (column 10, lines 12-14, 46-50).

As per **claims 7-8 and 17-18**, transmitting a manuscript review instruction to reviewer; and authorizing transmission of said manuscript to at least one of assigned editors, potential reviewers and reviewers of said manuscript (displaying authoring and edit control forms including list of action to be taken by an author or editor) (column 10, lines 31-62). Furthermore, Plantz teaches that depending on the project, assigning editorial tasks would include assigning an executive editor and other editorial titles (column 10, lines 52-56).

As per **claims 9-10 and 19**, said method and system, wherein said authorizing transmission comprises storing, in association with said unique identification, an identification of the associate (assigned) editor and a reviewer (column 10, lines 4-14). Furthermore, Plantz teaches that depending on the project, assigning editorial tasks would include assigning an executive editor and other editorial titles (column 9, lines 56-62).

As per **claim 21**, Plantz teaches that said manuscript can be published in print or in electronic form (downloaded) (column 1, lines 24-26). Hager teaches that said decision for publishing is final (column 5, line 22; column 9, line 11). The motivation to

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combine Plantz and Hager would be to combine in one system both reviewing and editorial functionality, thereby enhance the performance of the system and make it more attractive to customers.

As per **claim 22**, Hager teaches said method and system, wherein said decision for publishing is from different evaluators, and stored (column 2, lines 39-53). The motivation to combine Plantz and Hager would be to combine in one system both reviewing and editorial functionality, thereby enhance the performance of the system and make it more attractive to customers.

As per **claim 23**, Plantz teaches tracking said manuscript and storing said tracking information in a database (column 7, lines 1-2; column 11, lines 33-34).

Hager teaches determining whether evaluators votes have been received with regard to a particular document; and generating a prompting message to be utilized to induce an evaluator to submit a vote for the document if the evaluator has not done so within a preselected period of time (column 9, lines 27-37). The motivation to combine Plantz and Hager would be to combine in one system both reviewing and editorial functionality, thereby enhance the performance of the system and make it more attractive to customers.

As per **claim 24**, Hager teaches said method and system, wherein said final decision for publishing is made by a majority tallying of the individual reviews; and if all reviewers indicate said manuscript should be published, said manuscript is automatically sent to a printing queue or printing facility (column 2, lines 39-53; column 7, lines 20-21; column 7, line 48 through column 8, line 1; column 8, lines 44-51; column 9, lines 48-57). The motivation to combine Plantz and Hager would be to combine in one system both reviewing and editorial functionality, thereby enhance the performance of the system and make it more attractive to customers.

Furthermore, Plantz teaches:

As per **claim 25**, prompting a potential reviewer for agreement to review said manuscript (column 8, lines 20-30).

As per **claim 26**, receiving manuscript data defining a manuscript comprising at least one of text data, audio data, and video data (column 7, lines 37-43, 58-63; column

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8, lines 20-27; column 9, lines 24-31); prompting a potential reviewer for agreement to review said manuscript (column 8, lines 20-30).

As per **claim 26**, receiving manuscript data defining a manuscript comprising at least one of text data, audio data, and video data (column 7, lines 37-43, 58-63; column 8, lines 20-27; column 9, lines 24-31); prompting a potential reviewer for agreement to review said manuscript (column 8, lines 20-30).

As per **claim 27**, receiving manuscript data defining a manuscript comprising at least one of text data, audio data, and video data (column 7, lines 37-43, 58-63; column 8, lines 20-27; column 9, lines 24-31); prompting a potential reviewer for agreement to review said manuscript by means of telephone, facsimile, e-mail or (computer) (column 8, lines 20-30), wherein the use of a computer indicates "*automation*" feature. Furthermore, it would have been obvious to include said "*automatical*" feature since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

As per **claims 29-30**, storing an identification data of the associate (assigned) editor for said manuscript in association with said manuscript data (column 9, lines 25-30; column 10, lines 8-36). Furthermore, Plantz teaches that a system administrator assigns (authorization to access) projects to authors and editors (column 7, lines 6-10; column 8, lines 23-27; column 10, lines 63-67). Furthermore, Plantz teaches that depending on the project, assigning editorial tasks would include assigning an executive editor and other editorial titles (column 10, lines 52-56).

As per **claim 31**,

- receiving manuscript data defining a manuscript comprising at least one of text data, audio data, and video data (column 7, lines 37-43, 58-63; column 8, lines 20-27; column 9, lines 24-31);

- prompting a potential reviewer for agreement to review said manuscript (column 8, lines 20-30), thereby obviously indicating generating a request to review prompt for prompting said potential reviewer for agreement to review said manuscript;

- storing agreement data received from said potential reviewer (column 8, lines 20-30, 59-67; column 10, lines 1-13).

Plantz does not specifically teach *storing a decision whether to publish*.

Hager teaches a method and system for automatically initiating additional procedures with regard to a document, wherein evaluators vote to publish the document, and a decision whether to publish is stored (column 2, lines 39-53; column 7, lines 20-21; column 7, line 48 through column 8, line 1; column 8, lines 44-51; column 9, lines 48-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Plantz to include storing a decision whether to publish, as disclosed in Plantz, because it would advantageously allow to combine in one system both reviewing and editorial functionality, thereby enhance the performance of the system and make it more attractive to customers.

As per **claims 32-34**, storing an identification data of the associate (assigned) editor for said manuscript in association with said manuscript data (column 9, lines 25-30; column 10, lines 8-36). Furthermore, Plantz teaches that a system administrator assigns (authorization to access) projects to authors and editors (column 7, lines 6-10; column 8, lines 23-27; column 10, lines 63-67). Furthermore, Plantz teaches that depending on the project, assigning editorial tasks would include assigning an executive editor and other editorial titles (column 10, lines 52-56).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plantz et al. in view of Hager et al. and further in view of Price et al. ("Peering Into Peer Review ".

Plantz in view of Hager teaches all the limitations of claim 28, including prompting a potential reviewer for agreement to review said manuscript (Plantz; column 8, lines 20-30), except specifically teaching prompting *another potential reviewer* for agreement to review said manuscript *if a first potential reviewer disagrees to review said manuscript*.

Price et al. (Price), which appears to be published on December 1995, discloses a current practice of reviewing manuscripts in science journals, wherein reviewers may *decline* the offer to review a manuscript (see pages 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Plantz and Hager to include that prompting another potential reviewer for agreement to review said manuscript if a first potential reviewer disagrees to review said manuscript, as disclosed in Price, because it would advantageously allow to fulfill the editing process even when one of more originally assigned to the task reviewers disagrees to review said manuscript, thereby allowing the business to operate successfully.

(10) Response to Argument

Applicant argues that Plantz does not teach "*prompting a potential reviewer for agreement to review said manuscript*". Specifically, Applicant argues that so as Plantz does not teach *potential* reviewers/editors, but teaches only *already assigned* editors, Plantz does not teach prompting potential reviewers (Claims 1, 11 and 20).

In response to applicant's argument it is noted that Plantz explicitly discloses "prompting a potential reviewer for agreement to review said manuscript". Plantz teaches a Group Publishing System (GPS) for permitting coordinated or simultaneous publishing, assembly and administration of texts by an *unlimited number* of authors or editors over the Internet (C. 1, L. 10-15; C. 5, L. 1-9). Furthermore, Plantz teaches, that editors (titles) vary with a particular project; for example for medically related document editorial signoffs are required by medical, pharmaceutical, grammatical and other experts (C. 9, L. 58-63). Moreover, Plantz teaches, that during the project, it is determined whether there are books, topics, subtopics or sections of the project for which an assignment of *new author or editor has yet to be made* (C. 8, L. 54-67). And so as participating in the project is required an authorized access, in-person, telephonic, facsimile, standard mail, e-mail or like communication between the GPS project

manager and the author or editor allows for convenient authorization of usernames and passwords (C. 8, L. 27-30), thereby indicating "prompting a potential reviewer for agreement to review said manuscript".

In response to applicant's argument that Plantz does not teach "*storing agreement data received from said potential reviewer*" (Claims 1, 11 and 20), it is noted that Hager was applied for this feature. Specifically, Hager teaches: "Line 114 of computer screen 110 illustrates the evaluation vote of the evaluator and requires the evaluator to enter an indication of his or her vote with regard to a particular disclosure. As illustrated, the evaluator ... may indicate that the invention disclosure *should be published or closed*, may indicate that he or she does not know what status should be assigned the invention disclosure, or may abstain from the vote (C. 7, L. 63 – C. 8, L. 4). After receiving an evaluation for an invention disclosure document, block 134 depicts the *storing of that evaluation*. The *evaluation of a particular invention disclosure document may be stored* at the evaluation facility, at the terminal of the Chairman of the Evaluation Committee, and/or at the disaster recovery site which has been utilized to store the backup copy of the invention disclosure document in question" (C. 8, L. 44-51).

In response to applicant's argument that there is *no suggestion to combine* the references (Claims 1, 11, 20-23 and 31), Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Plantz and Hager relate to a method of reviewing and publishing of documents. The motivation to modify Plantz to include: storing a decision whether to publish, as disclosed in Plantz, would be combining both reviewing and editorial functionality in one

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system, with the benefit of enhancing the performance of the system and thereby making it more attractive to customers.

In response to applicant's argument that Plantz does not teach: *transmitting a signal prompting an additional potential reviewer for agreement to review said manuscript based on stored agreement data from at least one potential reviewer* (claims 2 and 12), it is noted that Plantz does, in fact, teach said feature. Specifically, Plantz teaches said Group Publishing System (GPS) for permitting coordinated or simultaneous publishing, assembly and administration of texts by an *unlimited number* of authors or *editors* over the Internet, wherein during the project it is determined whether there are books, topics, subtopics or sections of the project for which an assignment of *new author or editor has yet to be made*, and wherein the communication between the project manager and the author or editor for the purposes of authorizing an access to the system is conducted over a telephone, facsimile, standard mail, e-mail, or in-person (See reasoning applied to claims 1, 11 and 20). As per "agreement data" per se, Examiner stipulates that having the ID of a potential editor in Plantz discloses said feature.

In response to applicant's argument that Plantz does not teach: *storing an identification of an associate editor for said manuscript in association with said manuscript data* (claims 4 and 14), it is noted that Plantz teaches that depending on the project, assigning editorial tasks would include assigning an *executive* editor and other (associate) editorial titles (column 9, lines 56-62). Said "*association*" feature is further disclosed by an example for medically related document, in which editorial signoffs are required by medical, pharmaceutical, grammatical and other experts (C. 9, L. 58-63). As per applicant's argument that "an associate editor has less computer access rights than the editor", and that "an associate editor normally reports or is subordinate to an editor", it is noted that Plantz explicitly uses the term *executive editor*, thereby indicating an administrative structure within the editorial staff.

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In response to applicant's argument that Plantz does not teach: *storing at least one date on which said new assigned (associate) editor assigns a potential reviewer* (claims 5, 6, 15 and 16), it is noted that Plantz discloses entering data related to signing in a new editor; and maintaining the required log-in data (column 10, lines 12-20, 46-50).

In response to applicant's argument that Plantz does not teach: *transmitting a manuscript review instruction to reviewer; and authorizing transmission of said manuscript to at least one of assigned editors, potential reviewers and reviewers of said manuscript* (claims 7-8 and 17-18), it is noted that Plantz teaches displaying authoring and edit control forms including list of action to be taken by an author or editor (column 10, lines 31-62). As per "authorization" feature, Plantz discloses an authorized access to the system (C. 8, L. 27-30).

In response to applicant's argument that Plantz does not teach: *storing, in association with said unique identification, an identification of the associate (assigned) editor and a reviewer* (claims 9-10 and 19), it is noted that Plantz that depending on the project, assigning editorial tasks would include assigning an *executive* editor and other (associate) editorial titles (column 9, lines 56-62). Said "association" feature is further disclosed by an example for medically related document, in which editorial signoffs are required by medical, pharmaceutical, grammatical and other experts (C. 9, L. 58-63; C. 10, L. 4-14).

In response to applicant's argument that Hager does not teach: *sending a message upon completing a status check that includes whether a set of anticipated events, including receipt of a number of reviewers reviews and editors actions, occurred in a predetermined period of time* (claim 23), Examiner points out that Hager teaches determining whether evaluators votes have been received with regard to a particular document (status check) and generating a prompting message to be

utilized to induce an evaluator to submit a vote for the document if the evaluator has not done so within a preselected period of time (column 9, lines 27-37).

In response to applicant's argument that Plantz does not teach: *receiving at the central computer manuscript data defining a completed manuscript transmitted from a remote terminal associated with an author; and said prompting a potential reviewer for agreement to review said manuscript comprises transmitting prompt data to a remote terminal associated with said potential reviewer after receiving manuscript data defining a completed manuscript* (claim 26), it is noted that Plantz teaches: accessing (receiving) manuscript data defining a manuscript comprising at least one of text data, audio data, and video data (column 7, lines 37-43, 58-63; column 8, lines 20-27; column 9, lines 24-31); prompting a potential reviewer for agreement to review said manuscript by means of telephone, facsimile, e-mail or (computer) (column 8, lines 20-30).

In response to applicant's argument that Plantz does not teach: *receiving at the central computer manuscript data defining a completed manuscript transmitted from a remote terminal associated with an author; and in response to receiving said completed manuscript at said central computer automatically prompting a potential reviewer for agreement to review said completed manuscript* (claims 27 and 31), Examiner stipulates that Plantz teaches: accessing (receiving) manuscript data defining a manuscript comprising at least one of text data, audio data, and video data (column 7, lines 37-43, 58-63; column 8, lines 20-27; column 9, lines 24-31); prompting a potential reviewer for agreement to review said manuscript by means of telephone, facsimile, e-mail or (computer) (column 8, lines 20-30), wherein the use of a computer indicates "automation" feature. Furthermore, Examiner stipulates that it would have been obvious to include said "automation" feature since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

In response to applicant's argument that Plantz does not teach: *storing data indicating an identification of a first associate editor for said manuscript in association with said manuscript data and an identification of an editor, wherein said editor has rights to assign at least one second associate editor for said manuscript and said first associate editor does not have rights to assign any associate editor for said manuscript* (claims 29-30 and 32-34), it is noted that Plantz teaches collecting name data of a new assigned (associate) editor for said manuscript in association with said manuscript data (column 9, lines 25-30; column 10, lines 8-36). Furthermore, Plantz teaches that a system administrator assigns (authorization to access) projects to authors and editors (column 7, lines 6-10; column 8, lines 23-27; column 10, lines 63-67). Furthermore, Plantz teaches that depending on the project, assigning editorial tasks would include assigning an executive editor and other editorial titles (column 10, lines 52-56), thereby indicating an administrative structure of the editorial staff.

In response to applicant's argument that the prior art does not teach: *in response to receiving at said central computer system a signal indicating that a first potential reviewer disagrees to review said manuscript, generating at said central computer and transmitting to a second potential reviewer at a remote terminal a request prompting said second potential reviewer to review said complete manuscript* (claims 28 and 25), it is noted that Plantz discloses prompting a potential reviewers for agreement to review said manuscript via communications over the telephone, facsimile or computer (e-mail) (column 8, lines 20-30). Price was applied to disclose that a potential reviewer may disagree to review said manuscript (see pages 1 and 2).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* dismissal of the appeal as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

Igor N. Borissov

IGOR N. BORISSOV
PRIMARY EXAMINER

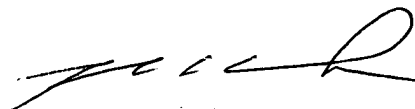
**A Technology Center Director or designee must personally approve the
new ground(s) of rejection set forth in section (9) above by signing below:**

WYNN W. COGGINS
TECHNOLOGY CENTER DIRECTOR



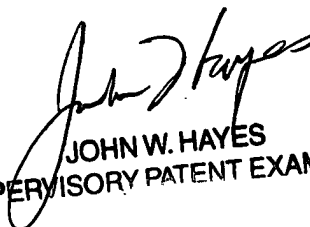
Conferees:

John Weiss



JOHN WEISS
SUPERVISORY PATENT EXAMINER

John W. Hayes



JOHN W. HAYES
SUPERVISORY PATENT EXAMINER